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Game and Fish Laws of Montana

1911-1912



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THE LACEY BIRD LAW

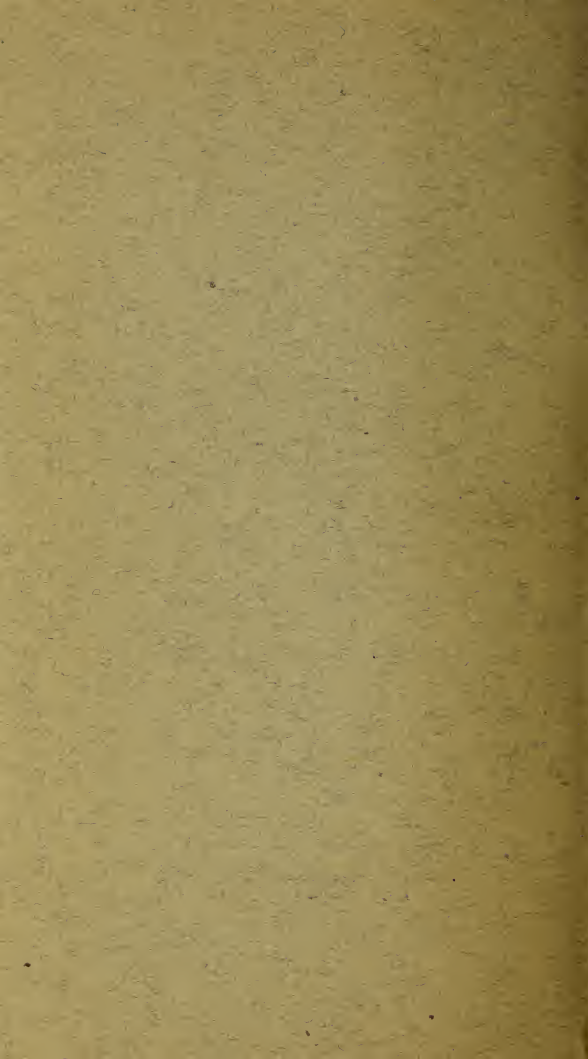
(Federal Law)

PUBLISHED BY

HENRY AVARE

State Game and Fish Warden

HELENA, MONT.



GAME AND FISH LAWS

1911-1912

of the

State of Montana

REVISED MARCH, 1911.

The Lacey Bird Law

(Federal Law)

COMPILED AND PUBLISHED BY

HENRY AVARE

State Game and Fish Warden
Helena, Montana



NOTICE.

All letters and communications sent to this office are treated as "strictly confidential." I would be pleased to hear from anyone at any time regarding any violation that may come to their knowledge and they may rest assured that their names will not be brought into the case without their permission.

Respectfully,

HENRY AVARE.

NOTICE.

Under the regulations no RESIDENT, NON-RESIDENT or ALIEN may procure a shipping permit from this office unless he be in possession of either a resident, non-resident or alien hunting and fishing license. Every resident, non-resident or alien MUST have a permit for each and every shipment of game out of the state. All shipping permits must be accompanied by the license when presented to the shipping agent and the agent shall make his endorsements on said license as provided for in Section 8809, Revised Codes 1907. (See page 13).

In making application for a shipping permit the applicant will give the number of his license, the number and kind of articles to be shipped and their description, for what purpose the same are being shipped, the person's name and address to whom shipped, and enclose 50 cents for each and every permit. If the permit be not granted the money will be returned to the sender.

HENRY AVARE,

State Game and Fish Warden.

Helena, Montana.

GAME AND FISH LAWS IN FORCE 1911-1912.

Revised March, 1911.

The reference marks above sections show where the section can be found in the Session Laws or in section referred to in the Revised Codes 1907. S. L. stands for Session Laws. All words or sentences enclosed in [] have been changed or modified by enactment for 1909.

Sections 8782, 8783, 8784, 8785, 8787, 8788 of the Revised Codes of Montana of 1907, as Amended by Sub. H. B. No. 24 and 32, S. L. 1909. Approved March 4th, 1909.

Sec. 8782. Any person who shall, between December first of any year and October first of the following year, wilfully shoot or kill, or cause to be shot or killed, any deer, or who in the open season of any calendar years shoots or kills, or causes to be shot or killed more than three deer, shall be punished by imprisonment in the county jail for a term not less than thirty days nor more than one year, or by a fine of not less than one hundred dollars, nor more than one thousand dollars, or by both such fine and imprisonment.

Sec. 8783. Any person who wilfully shoots or kills, or causes to be shot or killed, any moose, bison, buffalo, caribou, antelope or beaver, shall be punished by imprisonment in the state prison for a term not exceeding two years, or in the county jail not less than six months nor more than two years, or shall be fined not less than one hundred dollars nor more than one thousand dollars, or by both such fine and imprisonment. Provided, that any taxpayer and bona fide owner of real estate in this state, may upon his own

premises, or upon the right of way of his own ditches, kill or destroy beaver, when necessary, for the protection of his dams, irrigating ditches and trees, and to prevent the overflowing of water on his premises. Any person who wilfully shoots or kills, or causes to be shot or killed, any quail, Chinese pheasants, Hungarian pheasants or turtle doves, shall be punished by imprisonment in the county jail for a term of not less than thirty days nor more than twelve months, or by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by both such fine and imprisonment.

Sec. 8784. Any person who between the first day of December of one year, and the first day of October of the following year, wilfully shoots or kills or causes to be shot or killed, any elk, mountain sheep or mountain goat, or who in a single open season shall shoot, kill or cause to be shot or killed more than one elk, one mountain sheep or one mountain goat, shall be punished by imprisonment in the county jail for a period of not less than three months or more than twelve months, or by a fine of not less than one hundred dollars nor more than one thousand dollars or by both such fine and imprisonment.

Sec. 8785. Any person who shall sell or offer for sale the skin or skins of any beaver within this state, shall be guilty of a misdemeanor, and shall be punished by imprisonment in the county jail for a term of not less than ninety days nor more than twelve months, or by a fine of not less than fifty dollars nor more than one thousand dollars, or by both such fine and imprisonment.

Sec. 8786. Any person who hunts, chases, or runs with dogs any of the animals mentioned in sections 2, 3 and 4 of this act shall be punishable by a fine of not less than fifty dollars nor more than three hundred dollars,

or by imprisonment in the county jail for a term of not less than sixty days nor more than six months, or by both such fine and imprisonment. (This includes all game animals mentioned in the game laws of this state.)

Note—Sections 8782, 8783, 874, 8785 are substituted for the sections herein enumerated.

Sec. 8787. Any person who between the first day of November of any year and the first day of October of the following year, wilfully shoots or kills or causes to be shot or killed any grouse, prairie chicken, fool hen, sage hen, pheasant or partridge, or who during the open season, shoots or kills or causes to be shot or killed more than five grouse, or prairie chickens, or sage hens, or fool hens, or pheasants, or partridges, in any one day, shall be punished by a fine of not less than fifty dollars nor more than one thousand dollars or by imprisonment in the county jail for a term of not less than ninety days, nor more than twelve months, or by both such fine and imprisonment.

Sec. 8786. Any person who shall between the first day of January of any year and the first day of September of the same year, wilfully shoot or kill, or cause to be shot or killed, any wild geese, wild ducks, brant or swan, or shall during the open season shoot or kill or cause to be shot or killed more than twenty wild ducks in any one day, shall be punished by a fine of not less than twenty-five dollars nor more than one thousand dollars, or by imprisonment in the county jail for a term not exceeding three months or less than one month, or by both such fine and imprisonment.

Sec. 8789. Every person who wilfully shoots, or otherwise kills or causes to be killed, any meadow lark, blue bird, thrush, oriole, woodpecker, mocking bird, gold-finch, snow-bird, cedar-bird, stork, or any other of the small birds known as singing birds, shall be punish-

able by a fine not exceeding one hundred dollars, nor less than five dollars, and by imprisonment in the county jail not to exceed three months, or by both such fine and imprisonment.

Sec. 8790. That any person who shall wilfully catch, trap, or otherwise restrain, for the purpose of sale or domestication or any other purpose, any buffalo, elk, moose or mountain sheep within the state, shall be deemed guilty of a misdemeanor and be fined not more than five hundred dollars nor less than one hundred dollars and shall be imprisoned in the county jail for a term not to exceed six months or by both such fine and imprisonment for each offense committed in the discretion of the court.

Sec. 8791. Any person who shall wilfully destroy the nests or carry away the eggs from the nests of any of the birds or wild fowls mentioned in this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than five dollars nor more than twenty-five dollars for each offense committed, or by imprisonment in the county jail for a period of not exceeding sixty days, or both, at the discretion of the court.

Sec. 8792. Every person who takes or catches fish in any of the streams or lakes or ponds of this state, except with a pole, line and hooks, or any person who takes or catches fish with a hook baited with any poisonous thing or substance, or by means of dams, or in the use of any fish traps, grab-hooks, seines or similar means for catching fish, is guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than twenty-five dollars, nor more than two hundred dollars, or be imprisoned in the county jail not less than thirty days nor more than ninety days, or both such fine and imprisonment in the dis-

cretion of the court.

Sec. 87893. It is, however, lawful to use a seine or catch net in the Missouri river, except in that portion of said river known as Lake Sewall extending from the dam of the Missouri River Power Company in Lewis and Clark County, Montana, up said river to the bridge known as Blake's Ferry Bridge, in Broadwater County, and also in the Yellowstone river, except in that portion of said river above its confluence with the Big Horn river; provided, said seine or net has a mesh not less than one and one-half inches square; provided, further, that it shall be unlawful for any person to sell, or offer for sale, any fish caught by the use of such seine or catch net. Any person guilty of a violation of the provisions of this section shall be punished by a fine of not less than twenty-five dollars nor more than two hundred dollars, or by imprisonment in the county jail for a term not less than sixty days nor more than six months, or by both such fine and imprisonment.

Sec. 8794. Every person who in any way catches any trout, grayling or black bass, or who shall remove the eggs or spawn from any of said fish for speculative purposes, for market or for sale, or who shall sell, or offer for sale, any trout, grayling, black bass, or eggs, or spawn therefrom, shall be punishable by a fine of not less than twenty-five dollars nor more than two hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than ninety days, or by both such fine and imprisonment; provided, however, that this section shall not apply to fish caught in private ponds by the owners thereof.

Sec. 8795. All fines, bonds and penalties mentioned in any section of this act may be collected by a civil action in the name of the state of Montana in any court of competent jurisdiction upon proper complaint being filed,

and the amount of all fines and bonds collected under the provisions of this act shall be paid to the state treasurer and by him placed to the credit of the fish and game fund. All such fines, bonds and costs shall be collected without stay of execution, and the defendant or defendants, may by order of the court be confined in the county jail of the county until such fine and costs are paid.

Sec. 8796. If any person, or persons, shall use any giant powder or other explosive compounds for the purpose of catching or killing fish, he shall be deemed guilty of a felony, and upon conviction thereof, shall be punished by a fine not less than two hundred dollars, nor more than five hundred dollars, or by imprisonment in the state prison not less than one year nor more than three years, or both such fine and imprisonment.

Sec. 8797. Every person, persons or corporation who operates any saw-mill on or near any stream, lake or pond, who dumps, drops, carts, deposits or causes to be deposited in any such stream, lake or pond, any saw dust, bark or debris, coming from said saw-mill, is punishable by a fine of not less than fifty dollars, nor more than two hundred and fifty dollars, or by imprisonment in the county jail not less than thirty days, nor more than ninety days, or both such fine and imprisonment, in the discretion of the court.

Sec. 8799. There shall be constructed at all dams now existing or any that may be hereafter placed on any of the streams of the state, a fish way or ladder, said fish way or ladder to conform to the following requirements: It shall be from three to six feet in width, as the fish and game warden may direct; it shall extend from the base to the apex of the dam; it shall be strongly constructed and made of at least two-inch planks;

the sides shall not be less than one foot in height; it shall have wings placed on the inside at an angle of not more than forty-five degrees, which said wings shall not be more than four feet apart along each side of the way or ladder. The way or ladder shall have a slope of not more than thirty degrees. Any person or corporations who shall violate any of the provisions of this section, upon conviction thereof, shall pay a fine of not less than fifty dollars, nor more than two hundred dollars, or be imprisoned in the county jail for a period of not less than thirty days nor more than ninety days, or both such fine and imprisonment in the discretion of the court.

(Plans and specifications for fish ways may be had by applying to the State Game and Fish Warden.)

Sec. 8800. The possession of the dead bodies or any part thereof, or any of the birds or animals mentioned in this act, shall be prima facie evidence that such person or persons is or are guilty of killing the same.

Sec. 8801. Any person or persons, agent or employee, of any stage or express company, or railroad company, or association of persons, who shall receive for transportation or carriage, or shall sell or offer for sale, fish or game that have been taken or killed contrary to the provisions of this act, knowing or having reason to believe that such fish or game were so illegally caught, taken or killed, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than one hundred dollars, nor more than three hundreds dollars for each lot or shipment of fish or game so transported or carried, or be imprisoned in the county jail for not less than ninety days, or both in the discretion of the court.

Sec. 8802. Every person who shall sell or offer for sale, any of the birds or animals or any part thereof mentioned in sections 1, 2,

3, 4, 5 and 6 of this act (they are the same as are mentioned in sections 2, 3, 4, 6, 7 of Sub. H. B. 120, S. L. 1905), is punishable by a fine of not less than twenty-five dollars or more than two hundred and fifty dollars, or by imprisonment in the county jail for not less than thirty days, nor more than ninety days, or both such fine and imprisonment in the discretion of the court.

Sec. 8303. It shall be the duty of all grand juries to investigate all infractions of any provisions of this act, except such cases and violations as may have been tried by a court of competent jurisdiction, and upon due proof of violation of any of the said provisions, they shall proceed to indict such party or parties according to law, and it is hereby made the duty of the judges of the district court to call the attention of the grand jury to the provisions of this act. The district court shall have concurrent jurisdiction with the justices of the peace of all offenses committed under the provisions of this act. And it is further provided that in construing this act, the provisions and penalties hereinbefore made and prescribed shall be deemed and held to include all Indians and half-breed Indians when outside the Indian reservation. It is further provided and declared to be the duty of the sheriff, or peace officer of any county of the state, and the county attorneys of the respective counties when it shall come to their knowledge, or they shall have reason to believe that any person has violated any of the sections of this act, to commence criminal proceedings against them either in the justice or district court, as in their judgment shall be proper, and any failure on the part of any county attorney, sheriff or other peace officer, or game warden, who has knowledge of the violation of any of the provisions of this act, to commence such proceedings, shall be deemed a misdemeanor, and he shall be punished by

a fine of ~~1.00~~ to exceed five hundred dollars or by imprisonment in the county jail for not less than six months, or both such fine and imprisonment in the discretion of the court, and shall forfeit his office.

Sec. 8804. Whenever it shall appear under any prosecution under any section of this act making it a felony for the violation thereof, that the crime was committed, or that the game was killed, or the fish caught, in violation of law in any other state other than Montana, it shall be the duty of the magistrate or the court before whom the trial was had to hold said defendant for at least ten days, and such further time as may be necessary to allow the authorities of said state wherein the law has been violated to take the necessary steps to secure the arrest and extradition of the accused, if they so desire; and on the holding of the accused under the provisions of this section, it shall be the duty of the county attorney, or attorney prosecuting, to immediately notify the proper officers of the state and county in which it appears the law has been violated, of all the facts and circumstances connected with said proceeding.

Sec. 8805. When it is shown that any violation of the provisions of this act was for the purpose of preventing great suffering by hunger, of any person or persons, which could not otherwise have been avoided, the provisions of this act shall not apply to said case.

SHIPMENTS OF GAME.

Sec. 8806. It is unlawful, and it is hereby prohibited, for any person, or persons, to ship or take out of the state any of the birds or game animals, or any part thereof, mentioned in sections 1, 2, 3, 4, 5, 6 or 7, of an act to repeal sections 1110, 1111, 1112, 1113, 1114, 1115, 1116, 1117, 1118, 1119, 1120, 1121, 1122, 1123, 1124, 1125, 1126, 1127, 1128, 1129, 1130, 1131, 1132, 1133, 1134, 1135, 1136, 1137, 1138, 1139, 1140, 1141, 1142, 1143 and 1144 of the Penal Code of the State of Montana, and to provide further protection to birds, fish, fur-bearing animals and game, approved March 8, 1898, (they are the same as mentioned in sections 2, 3, 4, 6 and 7 of Sub. H. B. 120, S. L. 1905, and section 7, H. B. 123, S. L. 1897, and section 1 of H. B. 379, S. L. 1907, except as herein provided.)

Note—Sections 8782 to 8787 are substituted for the sections enumerated.

Sec. 8807. Any resident of this state who desires to ship out of the state any of the birds or animals, or parts thereof, mentioned in said act, during the open season for the killing of the same, the same having been killed lawfully, shall first procure a permit from the state game and fish warden, said permit stating the name of the consignee and consignor, destination, and number and kind of game that is shipped, and said permit shall be presented to the transportation company with the consignment of game.

Sec. 8808. Any non-resident of this state who has procured a hunter's license, and who desires to ship out of the state any of the birds or animals, or any part thereof, mentioned in this act, during the open season for killing the same, the same having been killed lawfully, shall present to the transportation company his license, with the consignment of game to be shipped, provided that

no one person shall ship in one year more game than it is lawful for one person to kill in a single open season.

Sec. 8809. It shall be unlawful for any person to ship, or offer for shipment, or for any transportation or common carrier, company, or any agent, servant, or employee of any such company, to ship or accept for shipment, any of the game birds, or game animals, or any parts thereof, mentioned in this act, for transport out of the state, except the same be accompanied by a permit issued by the state game and fish warden, as herein provided, or by a non-resident hunter's license. When said permit is presented, the company shall compare the description on the same with the consignment of game to be shipped and if the same is correct, the company may accept the consignment, and shall take up the permit and return the same to the state game and fish warden at once. When non-resident hunter's license is presented the company shall examine the license and if the kind of game offered for shipment is covered by said license, said game may be accepted for shipment; provided, that the amount of game offered for shipment is not in excess of the limit as prescribed by law to be killed by any one person, in any one open season. The company shall endorse upon the back of said license in ink, the name of the station from which shipment is made, date, destination, consignee, and the number of each kind of game shipped. The company shall at once notify the state game and fish warden, giving the number of the license, name of holder, shipping station, date, name of consignee, destination and number and kind of each kind of game shipped. Should a license be presented with a consignment of game for shipment, and the endorsement on the back of same show that the number of such game as was lawful to be killed by any one person

in one single open season, had already been shipped on said license, the company shall refuse to accept same for shipment. It shall be unlawful for any transportation or common carrier company, or any agent, servant, or employee of any such company to ship or accept for shipment any large game on a non-resident hunter's small game license, and vice-versa.

Sec. 8810. It shall be unlawful for any person to ship out of this state any birds, fish or animals protected by the laws of this state, except when the same shall be in the personal possession of, or carried as baggage or express, by the owner thereof, and accompanied by the owner thereof, upon the same train or other conveyance.

Sec. 8811. It is required that all packages containing fish or game shall be labelled in plain letters on the address side of the package, so as to disclose the contents thereof.

Sec. 8812. Any person or persons, transportation or common carrier company, agent, servant, or employee of any transportation or common carrier company who shall violate any of the provisions, or any part thereof, contained in sections 3, 4, 5, 6, 7 and 8 of this act, shall be punished by a fine of not less than fifty dollars nor more than three hundred dollars, or imprisonment in a county jail not less than thirty days, nor more than ninety days, or both such fine and imprisonment. All game shipped or had in possession in violation of any of the provisions of this act may be seized, confiscated and disposed of, as provided by law.

Note—Sections 8782 to 8787 are substituted for the sections hereinabove enumerated.

Sec. 8813. The state game and fish warden shall hereafter make a charge of fifty (50) cents for each and every shipment permit issued by him for the shipment of game or parts thereof out of the state. All money

so received shall be turned over by him to the state treasurer at the time and in the manner prescribed by law and the state treasurer shall place such money to the credit of the fish and game fund.

LICENSE TO GUIDE.

Sec. 8814. No person shall engage in the business of guiding as the term is commonly understood, without first having procured from the state game and fish warden a guide's license. Any competent person, who is a bona fide citizen of the state of Montana, shall, upon the presentation of an affidavit, stating that the applicant is of good moral character and responsible, and signed by three taxpayers of the county in which the applicant lives; and by the applicant signing the oath of office of deputy state game warden, and making the payment of ten dollars to the state game warden, receive from him a guide's license, which shall be good for one year only; provided, that upon payment of ten dollars annually said license may be renewed. Such license shall state the name, age, and place of residence of the holder, and shall further recite that the holder of such license is a person of good moral character. Every person acting as a guide in this state shall be a deputy game and fish warden, and shall file with the state game and fish warden his oath of office as such deputy game warden, but shall receive no compensation from the state in any way for such services, other than the consideration above mentioned.

Sec. 8815. Any person acting as a guide for any person or party shall be equally responsible with such person or party, for any violation of the law, and any such guide who shall wilfully fail or refuse to report any violation of the law, by the said person or party employing him, shall be liable to the

penalties as hereinafter provided for. (See Sec. 8819).

Sec. 8816. Any person who shall, for pay, aid or assist any person or party in locating, pursuing, hunting or killing any of the game birds or animals mentioned in this act, shall be deemed a guide, within the meaning of this section.

Sec. 8817. Any person who shall engage in the business of packing for hunting parties, as the term is commonly understood, or who shall for pay, accompany such party as guide, packer, or cook, shall be considered a guide and shall come within the requirement provided for in sections 10, 11, 13 and 14 of Senate Bill No. 30, approved February 21st, 1903; provided, however, it shall be necessary only for one of the persons above named, with each and every hunting party, to have fulfilled the requirements of this section.

(Note—Secs. 8814, 8815, 8818 and 8819 substituted for sections above enumerated.)

Sec. 8818. Whenever a guide is employed by any person or party, such guide shall at the expiration of the period of the time for which he was employed, make a written statement to the state game and fish warden, stating the number of days he was employed, the number of persons guided, their names, residences, and the number of each kind of game killed; and if non-residents, the number of their license.

Sec. 8819. Any person violating any of the provisions contained in sections 8815, 8816, 8818 and 8819 of this act shall be punished by a fine of not less than fifty dollars nor more than three hundred dollars or by imprisonment in the county jail for not less than sixty days nor more than six months, or both such fine and imprisonment, and in all cases of conviction their license shall be revoked.

TAXIDERMIST'S LICENSE.

Sec. 8820. Any person who shall engage in, or who is at the present time engaged in conducting any taxidermist business, as the term is generally understood, or any person who conducts a business for the purpose of mounting, preserving or preparing any of the dead bodies of any of the birds or animals, or any part thereof, mentioned in the game laws of this state, must first obtain from the state game and fish warden a taxidermist's license, such license to be taken out annually. Such person shall, on the first day of each month, make a written report to the state game and fish warden, of all the articles of game, the kind and number of each, by whom owned, and residence of owner, received during the past month, also of all the articles of game shipped and to whom and where shipped during the past month; also the amount and kind of each on hand on the last day of the month, and by whom owned and owner's address.

Sec. 8821. Any person failing to secure the herein mentioned license, or who shall fail, neglect, or refuse to make the above mentioned report, shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars, nor more than five hundred dollars, or by imprisonment in the county jail for a term not less than three months, or more than six months, or both such fine and imprisonment, and in all cases of conviction their license shall be revoked.

POLLUTING STREAMS.

Sec. 8557. All persons owning or having in operation, and all persons who may hereafter own or put in operation in the state of Montana, either in person or by agent, any coal mine on any stream containing fish or water which is used for domestic purposes, or for irrigation, are hereby required to so care for any coal slack or other refuse emanating from such coal mining operations as to prevent the same from mingling with the waters of such streams.

Sec. 8558. All persons owning or operating or who may hereafter own or operate any coal mine on any stream containing fish or water which is used for domestic purposes, or for irrigation, who shall dump, cart, or deposit, or cause and suffer to be deposited in such stream any such coal slack or other refuse emanating from such coal-mining operations, shall be deemed guilty of a misdemeanor, and, upon conviction thereof before any court of competent jurisdiction, shall be fined in any sum not less than two hundred dollars nor more than five hundred dollars for each and every offense.

Sec. 8750. Every person who wilfully or maliciously commits any trespass by either
* * * * * ; or

Subdivision 7. Hunts without permission upon the enclosed premises of another; or entering therein or on without the consent of the owner, agent or tenant of such premises or by authority of law, is guilty of misdemeanor.

GAME WARDENS.

Sec. 1951. The duties of said state game and fish warden shall be to examine into and inquire about any violation of the game and fish laws of this state, and to institute prosecutions for any violation of the law, and he is vested throughout the state with all the powers of a sheriff in making arrests and in the prosecution of all offenses against the game and fish laws of the state. He shall have general supervision over all deputy game and fish wardens hereinafter provided for; and he is hereby authorized to appoint such deputies.

Sec. 1954. That each of such deputies appointed as aforesaid shall perform the following duties: To examine into and inquire about any violation of the game and fish laws of this state and to institute prosecutions for any violations of said law, and make report at the end of each month to the state game and fish warden of all arrests and prosecutions made by said deputy, and furnish such other information which he may have that will tend to promote the enforcement of the game and fish laws; and he is vested throughout the state with all the powers of a sheriff in making arrests and in the prosecution of all offenses against the game and fish laws of this state.

Sec. 1957. The duties of said special deputy game and fish wardens shall be to inquire about any violations of the game and fish laws of the state of Montana and to institute prosecutions for any violation of said law, and report in detail to said state game and fish warden at the end of each month where they were each day of said month and the inquiries and efforts made by them to enforce the game and fish law; and each is vested throughout the state with all the powers of a sheriff in making arrests and in the prosecution of

all offenses against the game and fish laws of said state.

Section 1959 of the Revised Codes of Montana of 1907 is hereby amended to read as follows: (S. L. 1909).

Sec. 1959. The state game and fish warden, or deputy game and fish wardens, and special deputy game and fish wardens, may make complaints and cause proceedings to be commenced against any person for violation of any of the laws for the protection or propagation of game and fish in this state, and in such cases no bond or other security for costs shall be required. The game warden, or any of his deputies, shall have power to search any person and to examine any boat, conveyance, fish box, fish basket, game bag or game coat, or any other receptacle for game or fish, when he has reason to believe that he will thereby secure evidence of a violation of the law. The game warden, or any of his deputies, shall at any and all times have the power and authority to seize and take possession of any and all birds, animals or fish which have been caught, taken or killed at any time in a manner or for a purpose contrary to law, and such search and seizure may be made without warrant.

Any court having jurisdiction of the offense, upon receiving proof of probable cause for believing that any bird, animal or fish caught, taken or killed is in the possession or under the control of, or concealed, by any person contrary to any of the laws of this state, shall issue a warrant and cause search to be made, and to that end may cause any building, enclosure or car to be entered, and any apartment, chest, box, locker, crate, basket or package to be broken open and the contents thereof examined by the game and fish warden, or any deputy game and fish wardens, or any special deputy game and fish warden, or any sheriff, deputy sheriff or constable. All birds,

animals, fish, heads, hides, teeth, or other parts of any animal seized by any officer as herein provided shall be sold, under the direction of the state game warden, or his deputies, at a time, place and manner so as to receive the highest price therefor. Such sales shall be made at public auction to the highest and best bidder and the game warden, or his deputies, shall give notice of the time and place of such sale, together with a description of the bird or birds, fish, animal or animals, or parts or portions of animals, to be so sold, by at least one publication in a newspaper of general circulation published in the county where such sale is noticed to be held, and the date of sale shall not be less than five nor more than thirty days after the last date of such publication, provided that in cases where the property seized is perishable the same may be sold by such officers without publishing a notice thereof upon such public notice and under such terms and conditions as in the discretion of such officers may seem conducive to secure the full value thereof. Upon the sale of such property the officer shall issue a certificate to the party purchasing the same certifying that the purchaser has the legal right to the possession of the same, and any one so acquiring such property within this state shall have the right to deal therewith, without further question with respect to violation of the law, anything herein to the contrary notwithstanding. The money obtained upon the sale of such property shall be paid over to the court before whom the person having the same in possession at the time of seizure is prosecuted, or in which prosecution is pending, and if the person charged with violation of the law is found before said court of violation of the fish and game laws of this state, the money received from the sale of said property shall be paid over to the state treasurer and be deposited

by him to the credit of the fish and game fund, but should it be found that the party from whom the same was taken is not guilty of any violation of the game and fish laws of this state said money shall be paid to the party from whom such birds, animals, fish, or parts or portions thereof were taken. No officer shall be liable for any damages on account of any search, examination, seizure or sale as herein provided. The cost of advertising notice of sale as herein required, shall be paid from the fish and game fund.

Sec. 2. It shall be, and is hereby made, the duty of the game warden, and of every deputy game warden, to make a full and complete record of all property by them, or either of them, confiscated because of a violation of the game and fish laws of this state, showing, in detail, a description of the property, the person from whom it was confiscated, the price received therefor upon public sale, and the disposition of the money. The game warden shall keep in his office a permanent record showing all property confiscated by him or any of his deputies and the disposition made thereof under the provisions of this act.

Sec. 3. Any game warden, deputy game warden, or special deputy game warden guilty of a violation of the provisions of this act is guilty of a misdemeanor, and upon conviction shall be punished by imprisonment in the county jail not exceeding six months or by a fine not exceeding one thousand dollars, or by both such fine and imprisonment.

Sec. 1962. No special deputy state game and fish warden while holding such appointment or serving in such capacity shall engage actively in any other business, trade or profession, or perform any other duties other than those required for the proper fulfillment of his office.

Sec. 1975. All special deputy game and fish wardens shall make out each day a report of

all matters attended to and business transacted on said day and at the end of each week shall forward such report to the state game and fish warden.

LICENSES.

Sub. H. B. 120, S. L. 1905, p. 124.

Sec. 3. It shall be unlawful for any person or persons to hunt (or fish) within this state until a license is first procured as provided for in this act, which license must be produced upon the request of any game warden or peace officer for inspection. That possession of a gun or rod in the fields, or in the forests, or on or about the waters of this state by any non-resident of this state, without first securing the license required by this act, shall be prima facie evidence of the violation of its provisions, and any game warden or peace officer has the right to arrest any such party or parties without a warrant.

Sec. 4. Said license shall certify that the licensee is a bona fide resident of the state of Montana, and shall contain a complete description of the licensee together with his age, business, residence and postoffice address, and shall grant to such licensee permission to hunt, take, kill or catch any of the game animals, game birds [or fish] of this state at a time and in a manner not prohibited by law. Every applicant for such license must prove to the officer issuing such license that he is a bona fide resident of this state as required by section 7 of this act, and if requested by the officer must bring one witness who is known to said officer which witness must make affidavit that the applicant is a bona fide resident of this state within the meaning of section 7 of this act.

Note--Sec. 1970 of Revised Codes of 1907 is substituted for Sec. 7 as above enumerated.

Sec. 1970. To be a bona fide resident under

and within the meaning of this act, a person must have resided in this state for the six months last past, when applying for his license; provided, however, that all soldiers of the United States army stationed at any post or fort in Montana shall come under and within the provisions of this section.

Note—See Sec. 1976 following.

Sec. 1972. There is hereby created a non-resident's fishing license. Every person who is not a bona fide resident of the state of Montana under and within the meaning of section 7, Substitute for House Bill No. 120, Session Laws 1905, who desires to fish in this state must first obtain a license therefor from the state game and fish warden or deputy game and fish warden or justice of the peace. Said license shall contain the same description and be printed in the same form as the limited non-resident's license and shall grant the holder permission to fish only and shall cost the sum of one dollar and shall expire on December 31st, of the year issued; the same conditions that govern the issuance of other non-resident licenses shall apply in this case. The state game and fish warden shall furnish all justices of the peace with these license blanks and the justices are hereby allowed the same commission for issuing these licenses as for resident license.

Sec. 1973. From and after the passage of this act all blank hunting and fishing licenses or license blanks shall be delivered by the state printer to the state auditor. The state auditor shall turn over to the state game and fish warden upon his demand, such blank hunting and fishing licenses as are required and shall take a receipt from said state game and fish warden for all such licenses delivered to him. The state auditor shall also sign such license blanks with the state game and fish warden and the same shall be countersigned by the party issuing the licenses. The

state auditor shall charge the state game and fish warden with all licenses delivered to him and shall credit said state game and fish warden with all spoiled and unused licenses returned by him at the end of each calendar year and he shall issue to the state game and fish warden a receipt therefor. The state game and fish warden is hereby held responsible for any and all licenses delivered to him by the state auditor.

Sec. 1974. All forestry officers in the employ of the forestry service of the United States shall be considered bona fide residents of the state of Montana, under and within the meaning of section 7, Substitute for House Bill No. 120, Session Laws 1905 (Ante § 1970), and shall be entitled to a resident's license.

Sub. for H. B. 251, S. L. 1909.

That sections 1976 and 1977 of the Revised Codes of Montana of 1907 are amended to read as follows: (S. L. 1909.)

Sec. 1976. Every person who is a bona fide resident of the state of Montana, under the provisions of section 1970 of this Code, who desires to hunt, take, kill or catch any of the game animals or game birds and who desires to take, kill or catch any fish in any of the streams of this state, must first obtain a license therefor by paying the officer issuing such license the sum of one dollar (\$1.00);

And every person who is not a citizen of the United States and who has not declared to become such citizen, whether a bona fide resident of the state or not, who desires to take, kill or catch any fish, must first obtain a license therefor by paying the officer issuing such licenses the sum of five dollars (\$5.00).

And every person who is not a citizen of the United States and who has not declared his intention to become such citizen, whether a bona fide resident of the state or not, who desires to hunt, take, kill, catch or have in his possession any of the game animals or

birds of this state, must first obtain a license therefor of the state game and fish warden or a deputy state game and fish warden; said license shall certify that the licensee is not a citizen of the United States, and shall contain complete description of the licensee, together with age, business, residence and postoffice address, and shall grant to him permission to hunt, take, kill, catch or have in his possession any game animals or game birds of this state at a time and in a manner not prohibited by law.

Every applicant for such license shall, upon applying for the same, state his occupation, residence and postoffice address, and shall place his signature in ink upon such license in a place designated by the officer issuing the same, which signature must be made in the presence of such officer.

The applicant shall pay to the state game and fish warden or deputy state game and fish warden issuing the license, the sum of twenty-five (\$25.00) dollars for a "General License," which shall entitle the holder to hunt large or big game, small and feathered game; or the sum of ten (\$10.00) dollars for a "Limited License," which shall entitle the holder to hunt small and feathered game only.

Sec. 1977. Any bona fide resident of the state who desires to secure a resident hunting and fishing license without appearing personally before a party issuing the same as provided by law, may secure the same by making written application to any person within his own county issuing such licenses, and by filling the proper blank mailed to him by the party issuing such licenses and accompanying the same with the price of said license.

Any other person than a bona fide resident of this state, who secures either a hunting or fishing license, as in this act provided, shall appear personally before the officer issuing such licenses in order to secure the same.

Any person issuing a resident hunting and fishing license shall, upon a written request from any resident of the county in which he is issuing such licenses, mail to such applicant an application blank which is furnished by the state game and fish warden, and upon the receipt of such blank properly filled out and accompanied by the cost of said license, mail to the applicant a resident's hunting and fishing license, if the party issuing such license is acquainted with the applicant personally, then he may issue such license upon the receipt of the application blank properly filled out and signed by the applicant only, but should such party not be personally acquainted with the applicant, then he shall demand that two taxpayers of his county sign such application blank, certifying that the applicant is a bona fide resident of the state of Montana and of his county under and within the provisions of section 1971 of the Revised Codes of Montana of 1907. The party issuing the license shall forward such application blank to the state game and fish warden attached to the duplicate license the original of which has been sent to the applicant, at a time and in the same manner as other duplicate licenses are sent to the state game and fish warden. A license cannot be issued by application to a person living in another county. The state game and fish warden is hereby directed to furnish all persons issuing resident hunting and fishing licenses with these application blanks at the same time that licenses are sent out each year. Such blanks shall contain the same description as required on the hunting and fishing license and be in the proper form for the applicant to certify that he is a bona fide resident of the state of Montana under the meaning of section 1970 of the Revised Codes of Montana of 1907, and a resident of the county in which he is applying for such license; and said application blank

shall also provide for the certification of the same by two resident taxpayers of the county whenever such is necessary. Any person who shall falsely certify to any hunting and fishing license or application for the same is guilty of a misdemeanor and is punishable as such.

Any person who shall fish or hunt in this state without first securing a license therefor, as in this act provided, shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00), or by imprisonment in the county jail for a term of not more than six months or by both such fine and imprisonment, and in all cases of conviction their license shall be revoked.

Sec. 1977a. Every person who is not a bona fide resident of this state and who desires to hunt, take, kill, catch, or have in his possession, any of the game animals, game birds, or fish of this state, must first obtain a license therefor for the state game and fish warden or a deputy game and fish warden. Said license shall certify that the licensee is a non-resident of this state, and shall contain a complete description of the licensee, together with his age, business, residence, and post-office address, and shall grant to him permission to hunt, take, kill, catch, or have in his possession, any game animals, game birds or fish of this state at a time and in a manner not prohibited by law. Every applicant for such license shall upon applying for the same, state his occupation, residence and postoffice address, and shall place his signature in ink upon such license in a place designated by the officer issuing the same, which signature must be made in the presence of such officer. The applicant shall pay the state game and fish warden or deputy issuing the license the sum of twenty-five (\$25.00) dollars for a "General License," which shall entitle the holder to hunt large or big game, small and

feathered game, and to fish; or the sum of ten (\$10.00) for a "Limited License," which shall entitle the holder only to hunt small and feathered game and to fish. Any non-resident of this state who shall hunt, take, kill, catch, or have in his possession any of the game animals, game birds or fish of this state, or any part thereof, without having taken out and being at the time in possession of a non-resident's license as provided for in this act, and in the case of large or big game, being entitled by virtue of the same to hunt for large or big game, shall be punished by a fine of not less than fifty dollars or more than five hundred dollars, or by imprisonment in the county jail not less than one month or in the state prison more than one year, or by both such fine and imprisonment.

Sec. 1978. All persons issuing hunting and fishing license shall be entitled to receive as their compensation 10 per cent of the amount of their sales, and said commission shall include all costs of postage and other expenses attendant to the discharge of this duty.

Sub. H. B. 120, S. L. 1905, p. 126.

Sec. 5. Any justice of the peace issuing any resident license as above mentioned may retain as his fee ten (10) cents out of each dollar so collected and the balance of all moneys so collected shall be sent by him to the state treasurer monthly, namely, on the last day of each month, and he shall forward to the state game and fish warden at the same time a notice of the amount sent to the state treasurer. It is hereby made the duty of all qualified and acting justices of the peace in the state of Montana to issue said resident licenses and their bondsmen are hereby held responsible for all moneys so collected.

Sub. H. B. 120, S. L. 1905, p. 128.

Sec. 8. All licenses shall expire on the 31st day of December next after their issuance,

and shall be non-transferable. Any person who shall at any time alter, or change, or loan, or transfer to another, or have in his possession while hunting, or fishing, the license issued to another, shall be deemed guilty of a misdemeanor and shall be punished by a fine not less than fifty dollars nor more than two hundred dollars, or by imprisonment in the county jail for a term not less than thirty days nor more than ninety days, or by both such fine and imprisonment. If any game warden or other peace officer has reason to believe that a license is in the hands of a person other than the lawful licensee, such officer may require such party having the license to identify himself, and any such person refusing on such demand to identify himself, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than fifty dollars nor more than one hundred dollars or by imprisonment in the county jail not less than thirty days or more than ninety days or by both such fine and imprisonment.

Sub. H. B. 120, S. L. 1905, p. 128.

Sec. 9. The state game and fish warden shall have all licenses printed in the proper form. He shall provide at least one acting and qualified justice of the peace in each township of the state with blanks for issuing resident licenses, and shall furnish his deputies with such blanks. All licenses shall be in books of twenty licenses each, with stubs fastened in the book, and the licenses shall be in duplicate; the stub, duplicate and original shall contain the same number and same description. When issuing the same all three must be made out and signed by the officer issuing the license, the "Original" shall be given to the licensee, the "Duplicate" sent immediately to the state game and fish warden and by him place on file, and the "Stub"

left in the book, and on the 31st day of December of each year all stubs, spoiled and unused licenses remaining intact in the books shall be forwarded to the state game and fish warden to be checked and credited. The state game and fish warden shall charge all justices of the peace and deputies with all licenses furnished them and shall credit their respective accounts with all licenses returned by them which are unused and intact in the books, and he shall after the first day of January in each year check his accounts with those of the state treasurer. All justices of the peace and deputy game wardens shall be held responsible for all licenses issued them. All licenses of each kind shall each year be numbered consecutively, beginning with the number one (1). All licenses must be signed by the state game and fish warden and countersigned by the officer issuing the same. All moneys collected by deputy game wardens shall be sent to the state game and fish warden and receipted for by him and he shall turn the same over to the state treasurer with other moneys collected by him as prescribed by law.

SENATE BILL NO. 174.

"An Act entitled, An Act to establish game preserves for the protection of antelope and deer and other game animals and birds, and providing penalties for the killing of any such animals within such preserves."

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 1. For the better protection of antelope, deer and other game animals and birds, the following described area in the State of Montana, County of Dawson, is hereby set aside and established as a State Game Preserve, to be known as the Snow Creek Game Preserve, to-wit: Beginning at a point in Dawson County, on the east bank of Hell Creek at its

intersection with the Missouri River, and extending southward to a point four (4) miles north of the fifth (5th) standard parallel; thence west parallel with said standard parallel fifteen (15) miles; thence due north to the north bank of the Missouri River; thence following the north bank of said river to a point opposite the mouth of Hell Creek; thence across said river to point of beginning.

Sec. 2. There is also hereby established an additional game preserve to be known as the Prior Mountain Game Preserve, located in Carbon County, the boundaries of which are as follows, to-wit: Beginning at the northwest corner of section twenty-seven (27) township seven (7) south, of range twenty-five (25) East; thence south to the southwest corner of section three (3) township eight (8), south of range twenty-five (25) East; thence east to the southeast corner of section three (3), township eight (8), south of range twenty-five (25) East; thence south to the southwest corner of section eleven (11), township eight (8), south of range twenty-five (25) East; thence east to the southeast corner of section eleven (11), township eight (8), south of range twenty-five (25) East; thence south to the southwest corner of section twenty-four (24), township eight (8), south of range twenty-five (25) East; thence east to the southeast corner of section twenty-four (24), township eight (8), south of range twenty-five (25) East; thence south to the southeast corner of section twenty-five (25), township eight (8), south of range twenty-five (25) East; thence east to that point which when surveyed will be the southeast corner of section thirty (30), township eight (8), south of range twenty-six (26) East; thence south to that point which when surveyed will be the southwest corner of section thirty-two (32), township eight (8), south of range twenty-six (26) East; thence east to that point which when surveyed will

be the southeast corner of section thirty-six (36), township eight (8) south of range twenty-seven (27) East; thence north to that point which when surveyed will be the southwest corner of section thirty-one (31), township seven (7), south of range twenty-eight (28) East; thence east to that point which when surveyed will be the southeast corner of section thirty-one (31), township seven (7), south of range twenty-eight (28) East; thence north to that point which when surveyed will be the northeast corner of section nineteen (19), township seven (7), south of range twenty-eight (28) East; thence west to the northeast corner of section twenty-four (24), township seven (7), south of range twenty-five (25) East; thence south to the southeast corner of section twenty-four (25), township seven (7), south of range twenty-five (25) East; thence west to the northwest corner of section twenty-seven (27), township (7), south of range twenty-five (25) East, and place of beginning.

Sec. 3. It shall be unlawful for any person or persons at any time to hunt, trap, kill, capture, or chase any birds or animals of any kind whatever within the limits of the said State Game Preserves; provided, however, that permits to capture game animals and birds for scientific purposes or for purposes of propagation, and to destroy mountain lions, wolves, foxes, coyotes, wild cats, and mink, may be issued by the state game warden on the payment of a fee of five dollars, and in accordance with such regulations as may be established for said preserves by the warden. In order to carry out the provisions of this act, the state game and fish warden is hereby authorized to appoint two additional deputy state game and fish wardens, one of whom shall have charge of the Snow Creek Game Preserve, and the other of the Pryor Mountain Game Preserve, who shall receive the same

compensation as is now allowed deputy state game and fish wardens.

Any person violating the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00), or shall be imprisoned in the county jail for a term of not less than thirty (30) days or more than six months, or by both such fine and imprisonment.

Sec. 4. All acts and parts of acts in conflict herewith are hereby repealed.

Sec. 5. This act shall be in full force and effect from and after its passage and approval.

Approved March 4th, 1911.

HOUSE BILL NO. 304.

"An Act to prohibit the hunting of game animals and game birds within a certain district in the state of Montana, defining the boundaries of said district, and providing punishment for the violation thereof."

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 1. It is hereby unlawful for any person or persons to hunt, kill or pursue any game animal or game bird within the territory as established by the following boundaries, to-wit:

Beginning at a point in the center of the Yellowstone River where the Yellowstone River is intersected by the north boundary line of the Yellowstone National Park; thence down the Yellowstone River in a northerly direction, a distance of eight miles, more or less, to a point in the center of the Yellowstone River directly opposite the mouth of Mol Heron Creek; thence due west in a stright line until this projected line intersects the watershed between Mol Heron Creek and Tom Miner Creek, a distance of six miles, more or less; thence, in a general westerly direction, following the watershed between Mol Heron

Creek and Tom Miner Creek, Specimen Creek and Sheep Creek, Teepee Creek and Buffalo Horn Creek to Gallatin River, a distance of fifteen miles, more or less; thence across the West Gallatin River and in a general southerly direction up the divide between Sage Creek and Monument Creek, just above the White Springs, and continuing along this main divide around the headwaters of Monument Creek, Snowslide Creek and Bacon Rind Creek to a point at the intersection of this divide by the divide between Bacon Rind Creek and the headwaters of the Madison Teepee Creek, a distance of ten miles, more or less; thence in a general easterly direction along the divide between Bacon Rind Creek and Madison Teepee Creek to a point where it is intersected by the west boundary line of Yellowstone National Park, a distance of four miles, more or less; thence north along the west boundary line of the Yellowstone National Park, a distance of seven miles, more or less, to the intersection of the west boundary line of the Yellowstone National Park with the north boundary line of the Yellowstone National Park; thence along the north boundary line of the Yellowstone National Park, a distance of nineteen miles, more or less, to the place of beginning.

Sec. 2. Any person or persons guilty of a violation of this act shall be fined in any sum not less than twenty-five (\$25.00) dollars, nor more than two hundred (\$200.00) dollars.

Sec. 3. All acts and parts of acts in conflict herewith are hereby repealed.

Sec. 4. This act shall be in full force and effect after its passage and approval by the governor.

Approved March 4, 1911.

EX-OFFICIO FIRE WARDENS.

Senate Bill No. 59, S. L. 1909, approved March 19, 1909.

Fire Wardens.

Sec. 11. The state forester shall appoint in such number and localities as he deems wise, public spirited citizens to act as volunteer fire wardens. Every sheriff, under sheriff, deputy sheriff, game warden and deputy game warden, shall be ex-officio fire warden, but shall not receive any additional compensation by reason of the duties hereby imposed, and they shall be deemed paid fire wardens under the terms of this act. The supervisors and rangers of the federal forest reserves within this state, whenever they formally accept the duties and responsibilities of fire wardens, may be appointed volunteer fire wardens, and shall have all the powers given to the fire wardens by this act. The fire wardens shall promptly report all fires to the state board of forestry, take immediate and active steps toward their extinguishment; report any violations of forest laws, and assist in apprehending and convicting offenders.

Powers of Fire Wardens.

Sec. 12. The state forester and all fire wardens shall have the power of peace officers to make arrests without warrants for violations, in their presence, of any state or federal forest laws, and no fire warden shall be liable for civil action for trespasses committed in the discharge of their duties. Any fire warden who has information which shows, with reasonable certainty, that any person has violated any provisions of such forest laws shall immediately take action against the offender, by making complaint before the proper magistrate or by information to the proper county attorney, and shall obtain all possible evidence per-

taining thereto. Failure on the part of any paid fire warden to comply with the duties prescribed in this act, shall be a misdemeanor, and punishable by a fine of not less than twenty dollars, nor more than one thousand dollars, or imprisonment in the county jail for not less than ten days nor more than twelve months, or by both such fine and imprisonment; and upon his conviction the district court wherein he is convicted shall forthwith declare his office vacant, and notify the proper appointing power thereof.

Additional Power of Fire Wardens.

Sec. 13. All fire wardens shall have authority to call upon any able bodied citizen between the ages of eighteen and fifty years, residents of the vicinity, for assistance in putting out fires; and any such person who refuses to obey such summons, except for good and sufficient reason, is guilty of a misdemeanor, and upon conviction shall be fined in a sum not less than fifteen nor more than fifty dollars, or imprisonment in the county jail not less than one nor more than thirty days, or both such fine and imprisonment; provided, that no citizen shall be called upon to fight fire a total of more than five days in one year.

Duties of Fire Wardens.

Sec. 14. The state forester, assistant forester, and all fire wardens (except volunteer wardens), under such rules and regulations as the state board of land commissioners may provide, shall protect the timber of the state, and especially the timber owned by the state, from destruction by fire and for such purpose, in emergencies, may employ men and incur other expenses, when necessary; provided, that no fire warden shall incur any expense in excess of fifty dollars, without express authority of the state board of land commissioners.

Expenses of State Forester.

Sec. 15. That the actual expenses and

expenditures of the state forester, assistant forester and fire wardens necessarily incurred under this act, shall be paid in the same manner as are other expenses incurred in managing the state lands.

Penalty for Destroying Notices.

Sec. 16. Any person who shall destroy, deface, remove or disfigure any sign, post or warning notice posted under the provisions of this act shall be guilty of a misdemeanor, and punishable, upon conviction, by a fine of not less than fifteen dollars and not more than two hundred and fifty dollars, or imprisonment in the county jail for a period of not less than ten days nor more than three months, or by both such fine and imprisonment.

Prosecutions.

Sec. 17. Whenever an arrest shall be made for any violation of the provisions of this act, or whenever any information of such violations shall be lodged with him, the county attorney of the county in which this act was committed must prosecute the offender or offenders, if in his judgment the facts warrant the same. If any county attorney shall fail to comply with the provisions of this section he shall be guilty of a misdemeanor, and upon conviction shall be fined not less than one hundred dollars nor more than one thousand dollars; and upon his conviction the district court wherein he is convicted shall forthwith declare his office vacant, and notify the proper appointing power thereof. Actions against the county attorney shall be brought by the attorney general in the name of the state. The penalties of this section shall also apply to any magistrate, with proper authority, who refuses or neglects to cause the arrest and prosecution of any person or persons, when a complaint under oath of a violation of any of the provisions of this act has been lodged with him.

THE LACEY BIRD LAW.

31 U. S. Statutes at Large, pages 187-189,
Chapter 553.

An act to enlarge the powers of the department of agriculture, prohibit the transportation by interstate commerce of game killed in violation of local laws and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled:

That the duties and powers of the department of agriculture are hereby enlarged so as to include the preservation, distribution, introduction and restoration of game birds and other wild birds. The secretary of agriculture is hereby authorized to adopt such measures as may be necessary to carry out the purposes of this act and to purchase such game birds and other wild birds as may be required therefor, subject, however, to the laws of the various states and territories. The object and purpose of this act is to aid in the restoration of such birds in those parts of the United States adapted thereto where the same have become scarce or extinct, and also to regulate the introduction of American or foreign birds or animals in localities where they have not heretofore existed.

The secretary of agriculture shall from time to time collect and publish useful information as to the propagation, uses and preservation of such birds.

And the secretary of agriculture shall make and publish all needful rules and regulations for carrying out the purposes of this act, and shall expend for said purposes such sums as congress may appropriate therefor.

Sec. 2. That it shall be unlawful for any person or persons to import into the United States any foreign wild animal or bird except

under the special permit from the United States department of agriculture; provided, that nothing in this section shall restrict the importation of natural history specimens for museums or scientific collections, or the importation of certain cage birds, such as domesticated canaries, parrots, or such other species as the secretary of agriculture may designate.

The importation of the mongoose, the so-called "flying foxes" or fruit bats, the English sparrow, the starling, or such other birds or animals as the secretary of agriculture may from time to time declare injurious to the interest of agriculture or horticulture, is hereby prohibited, and such species upon arrival at any of the ports of the United States shall be destroyed or returned at the expense of the owner. The secretary of the treasury is hereby authorized to make regulations for carrying into effect the provisions of this section.

Sec. 3. That it shall be unlawful for any person or persons to deliver to any common carrier or for any common carrier to transport from one state or territory, or from the District of Columbia or Alaska to any state or territory, or from any state or territory to the District of Columbia or Alaska, any foreign animals or birds the importation of which is prohibited, or the dead bodies or parts thereof of any wild animals or birds, where such animals or birds have been killed in violation of the laws of the state, territory or district in which the same were killed; provided, that nothing herein shall prevent the transportation of any dead birds or animals killed during the season when the same may be lawfully captured, and the export of which is not prohibited by law in the state, territory or district in which the same are killed.

Sec. 4. That all packages containing such dead animals, birds, or parts thereof, when shipped by interstate commerce, as provided

in section 1 of this act, shall be plainly and clearly marked, so that the name and address of the shipper and the nature of the contents may be readily ascertained on inspection of the outside of such packages. For each evasion or violation of this act the shipper shall, upon conviction, pay a fine of not exceeding two hundred dollars; and the consignee knowingly receiving such articles so shipped and transported in violation of this act shall, upon conviction, pay a fine not exceeding two hundred dollars, and the carrier knowingly carrying or transporting the same shall, upon conviction, pay a fine of not exceeding two hundred dollars.

Sec. 5. That all dead bodies, or parts thereof, of any foreign game animals, or game or song birds, the importation of which is prohibited or the dead bodies or parts thereof, of any wild game animals, or game or song birds transported into any state or territory, or remaining therein for use, consumption, sale or storage therein, shall upon arrival in such state or territory be subject to the operation and effect of the laws of such state or territory enacted in the exercise of its police powers, to the same extent and in the same manner as though such animals and birds had been produced in such state or territory, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise. This act shall not prevent the importation, transportation, or sale of birds or bird plumage manufactured from the feathers of barnyard fowl.

Approved May 25, 1900.

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